

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PLUSH LOUNGE LAS VEGAS, LLC,

Plaintiff,

vs.

HOTSPUR RESORTS NEVADA, INC.,

Defendant.

Case No. 2:07-cv-01408-RCJ-PAL

REPORT OF
FINDINGS AND RECOMMENDATION

Before the court is defendant Hotspur Resorts Nevada, Inc.'s Response to Order for Status Report (Dkt. #18).

This case was filed as a miscellaneous action to enforce compliance with a subpoena served to compel Jeff Carlis to appear for deposition and produce documents, arising out of an action filed in the Central District of California, Case No. CV06-2626 GW (JTLx).

On January 31, 2008, the court entered an Order to Show Cause (Dkt. #7) requiring Jeff Carlis to appear before the undersigned United States Magistrate Judge on February 26, 2008 at 9:00 a.m. to show cause, if any, why sanctions, including contempt of court sanctions, should not be imposed for his failure to comply with the subpoena issued by this court compelling his attendance at a deposition on October 2, 2007 at 9:00 a.m. at the law offices of Goold, Patterson, Ales & Day. Hotspur Resorts filed a Supplemental Statement Re: Order to Show Cause (Dkt. #8) on February 12, 2008, informing the court that several motions were under submission in the companion or underlying action pending in California and requesting that the order to show cause hearing scheduled for February 26, 2008 be vacated.

In a Minute Order (Dkt. #9) entered February 26, 2008, the court vacated the order to show cause hearing and ordered counsel for Hotspur Resorts to file a status report by April 28, 2008 if a

1 stipulation to dismiss this action was not filed before that time. In the last thirteen months, the court
2 has entered numerous orders and orders to show cause as a result of the parties' failures to keep the
3 court apprised of the status of the underlying action and whether Hotspur Resorts was still seeking this
4 court's assistance in compelling compliance with the subpoena issued by this court to compel Mr.
5 Carlis to attend a deposition in the underlying California action. See Dkt. ## 9, 10, 12, 13, 16, and 17,
6 Minute Order in Chambers and Orders of the Court.

7 Hotspur Resorts' most recent Response (Dkt. #18) to the court's order to be provided with a
8 status report advises the court that Judge Wu of the Federal District Court of the Central District of
9 California decided Hotspur Resorts' motion for summary judgment and has dismissed the only federal
10 claim, reserving the right to refile in state court. Counsel for defendant Hotspur Resorts attempted to
11 communicate with counsel for plaintiff to gather his input prior to filing the status report but did not
12 receive a return call. Counsel for Hotspur Resorts requests that this case be dismissed.

13 This case was filed to compel a non-party to comply with a subpoena issued by this court to
14 compel attendance at a deposition needed in a federal case filed in the Central District of California.
15 The case pending in the Central District of California has now been dismissed, and defendant Hotspur
16 Resorts, which filed this action to compel compliance with the subpoena, has now requested dismissal.
17 Having reviewed and considered the matter,

18 **IT IS THE RECOMMENDATION** of the undersigned United States Magistrate Judge that
19 this action be dismissed.

20 Dated this 26th day of March, 2009.

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23 PEGGY A. LEEN
24 UNITED STATES MAGISTRATE JUDGE
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